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In Re: Loestrin 24 FE Antitrust Litigation

February 22, 2016

Class Actions, Drugs & Biotech

(United States First Circuit) - In consolidated pharmaceutical antitrust appeals involving an oral contraceptive drug Loestrin 24, alleging that settlement agreements between pharmaceutical defendants which delayed the release of generic versions of the drug violated Section 1 of the Sherman Act, 15 U.S.C. section 1, the district court's dismissal, on the basis that *FTC v. Actavis*, ___ U.S. ___, 133 S. Ct. 2223 (2013) only applied to monetary reverse payments and dismissed on the basis that the agreements had alleged the existence of non-cash reverse payments only, is reversed and remanded for further proceedings where the district court employed a limited reading of *Actavis*.

Schwann v. Fedex Ground Package Sys, Inc.

February 22, 2016

Labor & Employment Law

(United States First Circuit) - In a suit brought by individuals who contracted with FedEx to provide so-called first-and-last mile pick-up and delivery services, claiming FedEx should have treated and paid them as employees in certain respects, rather than as independent contractors, because FedEx cannot satisfy all three necessary requirements under the Massachusetts Independent Contractor Statute, Mass. Gen. Laws ch. 149 section 148B(a), the district court judgment is: 1) affirmed as to the holding that the express preemption provision of the Federal Aviation Administration Authorization Act of 1994 (FAAAA), 49 U.S.C. section 14501(c)(1), preempts the application of one of those requirements to FedEx; and 2) reversed as to the holding that the preempted requirement is severable from the two remaining requirements of the Massachusetts Statute.